1 2 3 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 4 AT SEATTLE 5 CAPNA IP CAPITAL LLC, 6 Plaintiff, C23-0281 TSZ 7 v. 8 ETZ HAYIM HOLDINGS, S.P.C., MINUTE ORDER SETTING TRIAL DATE AND RELATED 9 Defendant. **DEADLINES** 10 CAPNA IP CAPITAL LLC, 11 Plaintiff, C23-282 TSZ v. 12 ROOT SCIENCES LLC, 13 Defendant. 14 The following Minute Order is made by direction of the Court, the Honorable 15 Thomas S. Zilly, United States District Judge: 16 Having reviewed the parties' Joint Status Reports in these matters, as well (1) as the pleadings, the Court concludes that, because these cases involve the same patents-17 in-suit, namely United States Patents Nos. 10,507,407 and 10,814,248, the actions should be set on the same track toward trial. To be clear, however, the Court is not consolidating 18 the cases, and if both matters need to be tried, the Court will solicit input from the parties before deciding the sequence and manner in which the trials will be conducted. 19 The Court further concludes that the goals of efficiency and economy will 20 be served if the parties share discovery between the cases. The Court therefore ORDERS that any deposition conducted in one of these matters may be used in the other action in 21 the same fashion and for the same purposes that it could be used in the matter in which it was taken, provided that all parties were represented during the course of the deposition. 22 23 MINUTE ORDER SETTING TRIAL DATE AND RELATED DEADLINES - 1

(3) The Court hereby SETS the following trial date and related deadlines:

2	JURY TRIAL DATE (5 days)	October 28, 2024
3	Statement of asserted claims and preliminary infringement contentions due	September 1, 2023
5	Statement of preliminary non-infringement and invalidity contentions due	October 2, 2023
6	Deadline for joining additional parties	October 12, 2023
7	Parties to exchange preliminary proposed constructions of disputed claim terms and provide list of proposed extrinsic evidence	November 20, 2023
9	Joint Claim Chart and Prehearing Statement due	January 5, 2024
10	Parties to disclose reports from expert witnesses, if any, regarding Markman issues	January 5, 2024
11	Parties to disclose rebuttal expert reports, if any, regarding Markman issues	February 5, 2024
12	Deadline for completion of claim construction discovery and for amending pleadings	February 29, 2024
13 14	Opening claim construction briefs filed by  (and noted for the date that the responsive claim construction briefs are due)	March 7, 2024
15	Responsive claim construction briefs filed by	March 22, 2024
16	If a claim construction (Markman) hearing is necessary, one will be set upon at least 20 days' notice to the parties.	
17	Reports from expert witnesses under FRCP 26(a)(2) due	April 8, 2024
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19	Rebuttal expert reports due	May 8, 2024
20	All discovery motions must be filed by  (and noted on the motion calendar no later than the third  Friday thereafter)	May 30, 2024
21	Discovery completed by	July 8, 2024
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23	MINUTE ORDER SETTING TRIAL DATE AND RELATED DEADLINES - 2	

1 All dispositive motions must be filed by (and noted on the motion calendar no later than the August 8, 2024 2 fourth Friday thereafter; see LCR 7(d)) All motions related to expert witnesses 3 (e.g., Daubert motion) must be filed by August 15, 2024 and noted on the motion calendar no later than the third Friday thereafter (see LCR 7(d)) 4 All motions in limine must be filed by (and noted on the motion calendar for the Friday before 5 September 26, 2024 the Pretrial Conference) 6 Agreed pretrial order due October 11, 2024 7 Trial briefs, proposed voir dire questions, proposed jury October 11, 2024 instructions, and trial exhibits due 8 **Pretrial Conference** at 10:00 a.m. on October 18, 2024 9 10 **(4)** All other dates are specified in the Federal Rules of Civil Procedure, the 11

- (4) All other dates are specified in the Federal Rules of Civil Procedure, the Local Civil Rules, and the Local Patent Rules. These are firm dates that can be changed only by order of the Court, not by agreement of counsel or the parties. The Court will alter these dates only upon good cause shown: failure to complete discovery within the time allowed is not recognized as good cause.
- (5) If the trial date or other deadlines assigned to this matter create an irreconcilable conflict, counsel must notify Judge Zilly's Chambers at (206) 370-8830, within 14 days of the date of this Minute Order and explain the exact nature of the conflict. A failure to do so will be deemed a waiver. Counsel must be prepared to begin trial on the date scheduled, but should understand that the trial might have to await the completion of other cases.

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## (6) Claim Construction (Markman) Hearing

The claim construction hearing, if any, will be set for a half-day (2.5 hours). If more or less time is required, the parties are instructed to inform Judge Zilly's Chambers at (206) 370-8830.

PLEASE NOTE: The Court will <u>not</u> rule on dispositive motions that raise issues of claim construction prior to the <u>Markman</u> Hearing, unless special circumstances warrant doing so and leave of Court is obtained in advance of filing such motions.

## (7) Exhibits and Exhibit Lists

The original and one copy of any exhibits to be used at the <u>Markman</u> Hearing and/or during trial are to be delivered to the Court at least three (3) business days before the hearing and/or trial date at a time coordinated with Courtroom Deputy Clerk Laurie Cuaresma, who can be reached at (206) 370-8521.

Notwithstanding Local Civil Rule 16.1, the exhibit list shall be prepared in table format with the following columns: "Exhibit Number," "Description," "Admissibility Stipulated," "Authenticity Stipulated/Admissibility Disputed," "Authenticity Disputed," and "Admitted." The latter column is for the Clerk's convenience and shall remain blank, but the parties shall indicate the status of an exhibit's authenticity and admissibility by placing an "X" in the appropriate column. Duplicate documents shall not be listed twice: once a party has identified an exhibit in the pretrial order, any party may use it.

Each set of exhibits shall be submitted in a three-ring binder with appropriately numbered tabs. Each exhibit shall be clearly marked. Plaintiff's exhibits shall be

numbered consecutively beginning with 1; defendant's exhibits shall be numbered 2 consecutively beginning with the next multiple of 100 after plaintiff's last exhibit; any 3 other party's exhibits shall be numbered consecutively beginning with the next multiple of 100 after defendant's last exhibit. For example, if plaintiff's last exhibit is numbered 4 5 159, then defendant's exhibits shall begin with the number 200; if defendant's last exhibit number is 321, then any other party's exhibits shall begin with the number 400. 6 7 (8) Settlement 8 If the parties reach a settlement in principle, counsel shall notify Judge Zilly's 9 Chambers at (206) 370-8830 as soon as possible and indicate whether the Court may 10 enter a standard order that will dismiss the matter immediately, with prejudice and 11 without costs, but will provide the parties at least sixty (60) days to move to reopen in the 12 event they do not perfect their settlement. The Clerk is directed to send a copy of this Minute Order to all counsel of 13 (9) record. 14 Dated this 10th day of August, 2023. 15 16 homes & felle 17 Thomas S. Zilly United States District Judge 18 19 20 21 22

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